

Senate Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

CHAPTER 57

## **SENATE BILL 1106**

AN ACT

AMENDING SECTIONS 25-403 AND 25-817, ARIZONA REVISED STATUTES; RELATING TO  
CHILD CUSTODY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 25-403, Arizona Revised Statutes, is amended to read:

25-403. Custody; best interests of child

A. The court shall determine custody, either originally or on petition for modification, in accordance with the best interests of the child. The court shall consider all relevant factors, including:

1. The wishes of the child's parent or parents as to custody.

2. The wishes of the child as to the custodian.

3. The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.

4. The child's adjustment to home, school and community.

5. The mental and physical health of all individuals involved.

6. Which parent is more likely to allow the child frequent and meaningful continuing contact with the other parent. THIS PARAGRAPH DOES NOT APPLY IF THE COURT DETERMINES THAT A PARENT IS ACTING IN GOOD FAITH TO PROTECT THE CHILD FROM WITNESSING AN ACT OF DOMESTIC VIOLENCE OR BEING A VICTIM OF DOMESTIC VIOLENCE OR CHILD ABUSE.

7. Whether one parent, both parents or neither parent has provided primary care of the child.

8. The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding custody.

9. Whether a parent has complied with chapter 3, article 5 of this title.

10. Whether either parent was convicted of an act of false reporting of child abuse or neglect under section 13-2907.02.

11. WHETHER THERE HAS BEEN DOMESTIC VIOLENCE OR CHILD ABUSE AS DEFINED IN SECTION 25-403.03.

B. In a contested custody case, the court shall make specific findings on the record about all relevant factors and the reasons for which the decision is in the best interests of the child.

Sec. 2. Section 25-817, Arizona Revised Statutes, is amended to read:

25-817. Temporary orders; presumption of paternity

A. Pending a judicial determination of paternity, the court shall issue a temporary order of support, and may issue a temporary order regarding custody and parenting time, if any of the following applies:

1. Genetic testing affirms at least a ninety-five per cent probability of paternity.

2. A notarized or witnessed statement is signed by both parents acknowledging paternity or separate substantially similar notarized or witnessed statements are signed acknowledging paternity and filed with the department of health services pursuant to section 36-334 or filed with the department of economic security.

1        3. The respondent admits or does not deny paternity in a written  
2 response filed with the clerk of the court.

3        ~~4. There is other clear and convincing evidence as determined by a~~  
4 ~~court.~~

5        B. A temporary order issued pursuant to this section does not  
6 prejudice the rights of a person or child that are adjudicated at subsequent  
7 hearings in the proceeding.

8        C. A temporary order issued pursuant to this section may be revoked or  
9 modified and terminates when the final support, custody or parenting time  
10 order is entered or when the petition for support, custody or parenting time  
11 is dismissed.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.